

# SENATE BILL REPORT

## E2SSB 5923

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As Amended by House, April 6, 2007

**Title:** An act relating to aquatic invasive species enforcement and control.

**Brief Description:** Regarding aquatic invasive species enforcement and control.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Jacobsen and Sheldon).

**Brief History:**

**Committee Activity:** Natural Resources, Ocean & Recreation: 2/19/07, 2/28/07 [DPS-WM].  
Ways & Means: 3/05/07 [DP2S].  
Passed Senate: 3/14/07, 49-0.

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### SENATE COMMITTEE ON NATURAL RESOURCES, OCEAN & RECREATION

**Majority Report:** That Substitute Senate Bill No. 5923 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Morton, Ranking Minority Member; Fraser, Hargrove, Poulsen, Spanel, Stevens and Swecker.

**Staff:** Kim Johnson (786-7346)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5923 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Pridemore, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hatfield, Hewitt, Hobbs, Honeyford, Keiser, Kohl-Welles, Oemig, Parlette, Rasmussen, Regala, Roach, Rockefeller, Schoesler and Tom.

**Staff:** Kirstan Arestad (786-7708)

**Background:** Invasive species are generally considered to be animal or plant species that are thriving in a geographical area to which they are not native. Washington Department of Fish and Wildlife (DFW) has authority to manage aquatic nuisance species and is charged with tracking and proposing solutions to manage these species.

The Aquatic Invasive Species Prevention Account and the Aquatic Invasive Species Enforcement Account were created by the Legislature in 2005. One dollar fifty cents of each

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annual vessel registration fee is deposited into the Prevention Account and fifty cents of each annual vessel registration fee is deposited into the Enforcement Account.

Funds in the Prevention Account are appropriated to DFW to develop an Aquatic Invasive Species Prevention Program for recreational watercraft.

Funds from the Enforcement Account are appropriated to the Washington State Patrol (WSP) to develop an aquatic invasive species enforcement program for recreational watercraft.

DFW and WSP are required to submit a biennial report to the appropriate legislative committees by December 1, 2007, describing the actions taken in implementing the aquatic invasive prevention and enforcement programs, along with suggestions for improvements.

**Summary of Engrossed Second Substitute Bill: Aquatic Invasive Species Enforcement Program:** Funds from the Aquatic Invasive Species Enforcement Account may also be appropriated to DFW to develop an aquatic invasive species enforcement program for recreational and commercial watercraft.

DFW is authorized to establish random check stations and require persons transporting recreational and commercial watercraft to stop at the check stations. Persons stopped at a check station who possess watercraft or equipment that is contaminated with an aquatic invasive species are exempted from certain criminal penalties if that person complies with all DFW directives for the proper decontamination of the watercraft or equipment.

The new crime of unlawfully avoiding aquatic invasive species check stations is created. Persons who fail to obey check station signs, or who fail to stop and report at a check station if directed to do so by a uniformed fish and wildlife officer, are guilty of a gross misdemeanor.

DFW must post signs warning vessels of the threat of aquatic invasive species, the penalties associated with introduction of an invasive species, and proper contact information for obtaining a free vessel inspection. The signs must be posted at all ports of entry and at all boat launches owned or leased by DFW. DFW must also provide signs to all port districts, privately or publicly owned marinas, state parks, and other state agencies or political subdivisions that own or lease boat launches.

Persons failing to have an inspection conducted, and whose watercraft is contaminated, are guilty of unlawful introduction of an aquatic invasive species. The penalty may include forfeiture of the contaminated watercraft. Persons who get an inspection are exempted from criminal liability for introducing an aquatic invasive species.

**Ballast Water Management Program:** The Ballast Water Work Group (work group) expiration date is repealed and the work group is codified.

The duties of the work group are changed to include: (1) working with Oregon to develop a consistent ballast water management program for the Columbia River; (2) providing assistance to DFW with the implementation of the ballast water management program and with various research and evaluations regarding the program; and (3) working with the U.S. Coast Guard and Department of Ecology (DOE) to improve coordination and integration of vessel inspection procedures among agencies that board and inspect vessels.

DFW, in conjunction with the work group, is directed to adopt implementation time lines and standards for the discharge of ballast water into the waters of the state. The standards are intended to ensure that the discharge of ballast water poses minimal risk of introducing nonindigenous species.

The safety exemption is modified to require that ballast water must be chemically treated prior to discharge. Persons claiming a safety exemption must file documentation as required by DFW and pay a fee not to exceed \$5,000. Additionally, DFW is authorized to adopt rules for defining exemption conditions, compliance plans, and recommended chemical dose concentrations for treatment prior to discharge under the safety exemption.

A representative from the cruise ship industry and a representative from DOE are added to the work group.

DFW is authorized to develop a fee schedule for fees collected under the safety exemption. DFW may also set a graduated penalty schedule for penalties associated with unauthorized discharge and reporting requirements under the ballast water management program.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Natural Resources, Ocean & Recreation):** PRO: Aquatic Invasive Species are extremely costly to eradicate once introduced. Zebra mussels are extremely pervasive. The Great Lakes states spend about five billion a year to try to eradicate the zebra mussel. The damage that zebra mussels can do will affect our agriculture, trade, and hydropower industries. Zebra mussels are moving west. They have been found in Lake Mead and are knocking on our door. If we don't take preventative steps now, all of our efforts at salmon restoration will be wasted.

**Persons Testifying (Natural Resources, Ocean & Recreation):** PRO: Bruce Bjork, Mike Cenci, DFW; Jeff Devere, WSP.

**Staff Summary of Public Testimony on Substitute Bill (Ways & Means):** None.

**Persons Testifying (Ways & Means):** No one.

**House Amendment(s):** The requirement that vessels claim a safety exemption for chemically treated ballast water prior to discharge is removed.

The Ballast Water Work Group is directed to coordinate with agencies and other interested parties to develop recommendations for management of the treatment of unexchanged ballast water when vessels claim the safety exemption.

The terms "aquatic invasive species" and "recreational and commercial watercraft" are defined.

The requirement that DFW conduct a programmatic environmental impact statement to address the department's plan of treatment and immediate response to the introduction of an aquatic invasive species is removed.

DFW's aquatic invasive species early detection and rapid response plan must address treatment and immediate response to the introduction of aquatic invasive species. The plan is required to be subject to agency and public review under the state environmental policy act.